

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JANE DOE 2,)
)
)
Plaintiff,) Civil Action No. 3: 2023-cv-00582
)
)
v.)
)
JIMMIE ALLEN, AADYN'S DAD) JUDGE ALETA A. TRAUGER
TOURING, INC., CHARLES HURD, and)
JOHN DOES 1-100,)
)
)
Defendants.)
)

**PLAINTIFF'S MOTION FOR DISMISSAL OF DEFENDANT JIMMIE ALLEN'S
COUNTERCLAIM FOR WANT OF PROSECUTION OR ALTERNATIVELY
FOR AN ORDER PRECLUDING EVIDENCE**

Pursuant to Fed. R. Civ. P. 41(b), Plaintiff Jane Doe 2 respectfully files this Motion for Dismissal of Jimmie Allen's Counterclaim for Want of Prosecution. Alternatively, Plaintiff requests that the Court preclude Defendant's testimony or any evidence which has not already been produced by the Defendant, and grant Plaintiff 30 days to produce her expert reports.

Plaintiff has conferred extensively with Defendant Jimmie Allen's ("Allen") former and current counsel over the last ten months, but Defendant has not met Court-ordered deadlines even when extended. While Plaintiff has worked with defense counsel cooperatively to minimize the impact of Defendant's failures, Plaintiff must now take steps to ensure she is not further prejudiced.

Defendant Allen has not responded to discovery served in October 2023 and June 2024 seeking information relating to the purported damages he seeks in his Counterclaim and has failed to provide dates for his requested deposition. With the close of fact discovery and deadline for Plaintiff's experts on August 28, 2024, Defendant's failure to respond to discovery relating to his

Counterclaim (and Plaintiff's claims) will severely prejudice Plaintiff if the Counterclaim is permitted to proceed. Accordingly, dismissal of the Counterclaim for want of prosecution is warranted.

WHEREFORE, Plaintiff Jane Doe respectfully requests that this Court grant her motion for dismissal of Jimmie Allen's Counterclaim and such other and further relief as this Court deems appropriate.

Dated: August 27, 2024

Counsel for Plaintiff:

/s/ Elizabeth A. Fegan

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CERTIFICATE OF SERVICE

I, Elizabeth A. Fegan, an attorney, caused the foregoing to be filed on August 27, 2024 via the Court's electronic filing system which will serve all counsel of record, including:

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By: /s/ Elizabeth A. Fegan